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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re the Application of: **Masaru SUGANO**

Group Art Unit: **2623**

Serial Number: **09/863,352**

Examiner: **Farzana E. Hossain**

Filed: **May 24, 2001**

Confirmation Number: **1126**

For: **DESCRIPTION SCHEME AND BROWSING METHOD FOR
AUDIO/VIDEO SUMMARY**

Attorney Docket Number: **010661**

Customer Number: **38834**

SUBMISSION OF APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

August 11, 2006

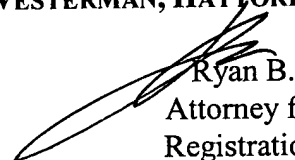
Sir:

Applicants submit herewith an Appeal Brief in the above-identified U.S. patent application.

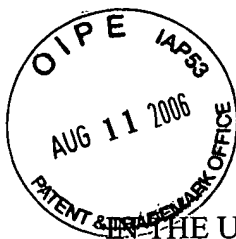
Attached please find a check in the amount of \$500.00 to cover the cost for the Appeal Brief. If any additional fees are due in connection with this submission, please charge Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP


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RBC/jl



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

APPEAL BRIEF FOR THE APPELLANT

Ex parte Masaru SUGANO et al. (Applicant)

DESCRIPTION SCHEME AND BROWSING METHOD FOR AUDIO/VIDEO SUMMARY

Serial Number: 09/863,352

Filed: May 24, 2001

Appeal No.:

Group Art Unit: 2623

Examiner: Farzana E. Hossain

Submitted by:

Ryan B. Chirnomas

Registration No. 56,527

Attorney for Appellants

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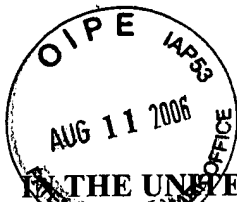
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August 11, 2006



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re the Application of: **Masaru SUGANO et al.**

Appeal No: **Unassigned**
Group Art Unit: **2614**

Serial No.: **09/863,352**

Examiner: **Wai Yip Lam**

Filed: **May 24, 2001**

Confirmation Number: **1126**

For: **DESCRIPTION SCHEME AND BROWSING METHOD FOR AUDIO/VIDEO
SUMMARY**

Attorney Docket Number: **010661**
Customer Number: **38834**

APPEAL BRIEF

Mail Stop **Appeal Brief-Patents**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
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08/11/06

Applicants appeal the rejection of claims 10-27. The Office Action of January 27, 2006 sets forth the Examiner's basis for the rejection.

Applicants (now referred to hereinbelow as "appellants") filed a Notice of Appeal on June 27, 2006.

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I. REAL PARTY IN INTEREST

The real party in interest is the assignee of the subject application, which is:

KDDI CORPORATION

3-1, Nishishinjuku, 2-chome

Shinjuku-Ku, Tokyo

JAPAN

II. RELATED APPEALS AND INTERFERENCES

Appellants know of no other appeals or interference proceedings related to the present appeal.

III. STATUS OF CLAIMS

Claims 10-27 on appeal are rejected, and claims 1-9 are canceled.

IV. STATUS OF AMENDMENTS

No amendments were filed subsequent to the Final Rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Aspects of the claimed invention include: (1) a method of describing summary data of at least one of audio data, video data, and audiovisual data (hereinafter called audio/video); and (2) a browsing method employing such method of describing summary data of audio/video.

With respect to claims 10-18, embodiments of the disclosed methods include: identifying multiple items of compressed or uncompressed original audio/video contents (*e.g.*, element 1 in

Fig. 2A); identifying slide components (*e.g.*, element 3 in Fig. 2A) of an audio/video slide composed of single or multiple important portions of the multiple items of original audio/video contents; and providing a description of the slide components such that the components are described sequentially (see, *e.g.*, Fig. 2C). The description of the slide components includes a description about a link between the multiple items of original audio/video contents and the slide components (see, *e.g.*, Figs. 5C and 6C)

With respect to claims 19-27, embodiments of the disclosed methods include: identifying single or multiple compressed or uncompressed original audio/video contents (*e.g.*, element 1 in Fig. 2A); identifying slide components (*e.g.*, element 3 in Fig. 2A) of an audio/video slide composed of single or multiple important portions of the original audio/video contents; providing a description of the slide components such that the components are described sequentially (see, *e.g.*, Fig. 2C); and displaying the description of the slide components (see, *e.g.*, Fig. 7). The description of the slide components includes a link description of the temporal relationship between the original audio/video contents and the slide components (see, *e.g.*, Fig. 2C).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Appellants appeal the following rejections:

- (A) The rejection of claims 10, 11, 14-20, and 23-27 under 35 U.S.C. § 102(e) as anticipated by Sezan et al., U.S. Patent No. 6,236,395;
- (B) The rejection of claims 12 and 21 under 35 U.S.C. § 103(a) as obvious over Sezan et al. in view of Ottesen et al., U.S. Patent No. 5,930,493; and
- (C) The rejection of claims 13 and 22 under 35 U.S.C. § 103(a) as obvious over Sezan et al. in view of Kitamura, EP 0 942 603.

VII. ARGUMENTS

Appellants explain herein why the rejections should be reversed. Each rejection is addressed individually.

- A. The rejection of claims 10, 11, 14-20, and 23-27 under 35 U.S.C. § 102(e) as anticipated by Sezan et al., U.S. Patent No. 6,236,395 should be reversed.**

The following argument applies to claims 10, 11, and 14-18 as a group separate from claims 19, 20, and 23-27:

The rejection of claims 10, 11, 14-18 should be reversed because of either of the following reasons: (1) the asserted prior art does not teach “providing a *description* of the slide components” (*emphasis added*) as recited in the claims; and (2) the asserted prior art does not teach that the slide components are composed of important portions of *multiple* items of original audio/video contents. Appellants elaborate upon each of these reasons as follows:

- (1) The asserted prior art does not teach “providing a *description* of the slide components” (*emphasis added*) as recited in the claims.**

Base claim 10 describes a method of describing summary data of audio/video, and the claim specifies that the method includes:

- (1) identifying *multiple* items of original audio/video contents;
- (2) identifying slide components of an audio/video slide composed of important portions of the *multiple* items of original audio/video contents;
and
- (3) providing a *description* of the slide components.

Claims 11 and 14-18 depend from claim 10, so they also describe this subject matter.

Regarding the first element indicated above, the rejection relies on the Sezan et al. representative frames of different programs (see left-hand column of Fig. 9) to teach multiple items of audio/video contents as recited in the claims.

Regarding the second element indicated above, the rejection relies on the Sezan et al. key frame views (see the bottom of Fig. 9) to teach the slide components of an audio/video slide.

As also indicated above, another element of the claims is “providing a description of the slide components.” Because the rejection relies on the Sezan et al. key frame views to teach slide components, Sezan et al. would need to teach providing a description of those key frame views to anticipate the claims. However, the display in Fig. 9 provides no description at all of the key frame views.

The Office Action notes that that the key frame views (“slide components”) in Fig. 9 are displayed one after another. The Office Action thus presents the conclusion that the sequential display of key frame views is a sequential display of a description of slide components.

However, such interpretation of the claims and prior art disregards the recitation “description of” in the claims. Assuming *arguendo* that it is proper to interpret the sequential display of key frame views as a sequential display of slide components as recited in the claims, the Examiner has the additional requirement of identifying the provision of a “description of” the sequential display of slide components. This “description,” explicitly recited in the claims, is not addressed in the Office Action. Accordingly, the rejection is unjustified for at least this reason.

Fig. 9 displays the key frame views without *any* description. Because the rejection relies on these key frame views to teach slide components, it is not proper to rely on the same teaching

to teach a *description* of those components, also. Thus, the rejection of claims 10, 11, and 14-18 cannot be proper.

Appellants presented the above argument to the Examiner in the Request for Reconsideration of April 27, 2006, and this argument is essentially ignored in the Advisory Action of May 31, 2006. The Examiner provides little more than a repetition of his statements from prior Office Actions that the prior art key frame views are slide components. He provides no explanation of how the prior art supposedly teaches providing a *description* of those key frame views/slide components except to cite "Fig. 9, Summary, Col. 15, lines 55-58, Col. 16, lines 5-35." Appellants note that Fig. 9 shows the key frame views without any description. Meanwhile, the SUMMARY OF THE INVENTION does not even recite "key frame views." With regard to Col. 15, lines 55-58 and Col. 16, lines 5-35, the <KeyFrame> elements of a <KeyFrameView> element in Sezan et al. only includes a relationship between the start/endpoint ID of the *segment* related to the key frame and the ID of the *frame* displayed as a key frame. That is, they can handle only key frames in a single items (audio/video programs), and not multiple items.

Thus, despite appellants' explicit statement that the asserted prior art does not teach providing a *description* of the slide components as recited in the claims, the Examiner maintains the rejection but fails to provide a quote from the prior art which actually teaches providing such description. For at least this reason alone, reversal of the rejection of claims 10, 11, and 14-18 is hereby solicited.

Nonetheless, appellants provide an additional reason to reverse the rejection of claims 10, 11, and 14-18 as follows:

- (2) The asserted prior art does not teach that the slide components are composed of important portions of *multiple* items of original audio/video contents.

As discussed above briefly, the representative frames of different programs along the left-hand column of Fig. 9 are relied upon to teach multiple items of audio/video contents. Also, the key frame views along the bottom of Fig. 9 are relied upon to teach the slide components of an audio/video slide.

However, the claims specify that the slide components (key frames) are composed of important portions of *multiple* items of original audio/video contents, and Sezan et al. does not disclose this feature. Note the following from col. 14, lines 32-34:

Also a set of key frame views are displayed on the lower portion of the display representative of different key frame portions during the *particular selected program*.

(*Emphasis added.*) That is, all key frame views shown in Fig. 9 correspond to a *single* program (the selected program at the top of the column). Thus, Sezan et al. cannot teach identifying key frame views corresponding to *multiple* items of original audio/video contents as claimed.

The Final Office Action states that a user *can* select other representative frames along the left-hand column of Fig. 9, and that selection would cause key frame views to appear that corresponded to a different item of original audio/video contents. Applying this reasoning, according to the Office Action, Sezan et al. would teach identifying slide components, which are composed of important portions of the *multiple* items of original audio/video contents as claimed.

However, an anticipation rejection cannot be based on what a user *can* do; instead, the applied prior art must actually teach the actions recited in the claims. The cited prior art, that is, Fig. 9 of Sezan et al., only shows identifying key frame views corresponding to a *single* item of

original audio/video contents. The ability of a user to cause the Sezan et al. hardware to identify key frame views corresponding to multiple items of original audio/video contents is not a prior art teaching. To justify the anticipation rejection, the PTO is obligated to provide a teaching that such identification is actually made. Because the PTO has not provided such identification, the anticipation rejection is unjustified for another reason.

Appellants presented the above argument to the Examiner in the Request for Reconsideration of April 27, 2006, and, unlike the other argument, the Examiner provides no response in the Advisory Action of May 31, 2006. That is, despite appellants' explicit statement that the asserted prior art does not teach that the slide components are composed of important portions of *multiple* items of original audio/video contents as recited in the claims, the Examiner maintains the rejection but fails to provide a quote from the prior art which actually teaches the claimed subject matter discussed by appellants.

For at least the reasons provided above, the anticipation rejection of claims 10, 11, and 14-18 should be reversed.

The following argument applies to claims 19, 20, and 23-27 as a group separate from claims 10, 11, and 14-18:

The anticipation rejection of claims 19, 20, 23-27 should be reversed, because the asserted prior art does not teach providing a description of slide components, as discussed above, so therefore the prior art cannot teach "displaying" the description as recited in the claims. Appellants elaborate as follows:

Base claim 19 describes a method of describing summary data of audio/video, and claim 19 explicitly recites that the method includes:

- (1) providing a description of slide components that includes a link description of the temporal relationship between original audio/video contents and the slide components; and
- (2) displaying the description of the slide components.

Claims 20 and 23-27 describe this subject matter by virtue of their dependency from claim 19.

As discussed above, Sezan et al. does not teach providing a *description* of slide components. Certainly, Sezan et al. does not teach “displaying” the description of the key frame views in Fig. 9; Sezan et al. displays the key frame views without a description. Because Sezan et al. does not teach each step recited in claims 19, 20, and 23-27, the anticipation rejection cannot be proper.

Appellants presented the above argument to the Examiner in the Request for Reconsideration of April 27, 2006, and, in the Advisory Action of May 31, 2006, the Examiner merely references his earlier remarks and adds that Fig. 9 discloses the display of the description in the lower portion. Appellants explain above that, although Fig. 9 shows key frame views, it provides no description of those key frame views. Accordingly, the Examiner’s response does not include a valid citation of the prior art teaching a description of slide components and its display as recited in the claims.

In view of the reasons provided above that the rejection is unjustified, reversal of the anticipation rejection of claims 10, 11, 14-20, and 23-27 is now solicited.

B. The rejection of claims 12 and 21 under 35 U.S.C. § 103(a) as obvious over Sezan et al. in view of Ottesen et al., U.S. Patent No. 5,930,493 should be reversed.

Under MPEP § 2142, the initial burden is on the Examiner to justify a *prima facie* conclusion of obviousness, and according to the Final Office Action, the obviousness rejection of claims 12 and 21 relies in part on Sezan et al. to anticipate base claims 10 and 19. However, as shown above, the anticipation of claims 10 and 19 based on Sezan et al. has not been properly justified. Therefore, the obviousness rejection of claims 12 and 21 (which depend from claims 10 and 19, respectively) has not been properly justified, either.

For at least this reason, appellants request that the Board reverse the obviousness rejection of claims 12 and 21.

C. The rejection of claims 13 and 22 under 35 U.S.C. § 103(a) as obvious over Sezan et al. in view of Kitamura, EP 0 942 603 should be reversed.

According to the Final Office Action, the obviousness rejection of claims 13 and 22 relies in part on Sezan et al. to anticipate base claims 10 and 19. Again, as shown above, the anticipation of claims 10 and 19 based on Sezan et al. has not been properly justified. Therefore, the obviousness rejection of claims 13 and 22 (which depend from claims 10 and 19, respectively) has also not been properly justified.

For at least this reason, appellants request that the Board reverse the obviousness rejection of claims 13 and 22.


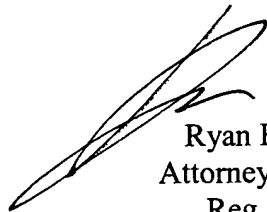
VIII. CONCLUSION

For the above reasons, appellants respectfully request that the Board of Patent Appeals and Interferences reverse the Examiner's rejections of claims 10-27.

If this paper is not timely filed, appellants petition for an extension of time. The fee for any such extension may be charged to our Deposit Account No. 50-2866, along with any other additional fees, which may be due.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP



Ryan B. Chirnomas
Attorney for Appellants
Reg. No. 56,527

Enclosures: Claims appendix
Evidence appendix
Related proceedings appendix

RBC/JLF/jl

CLAIMS APPENDIX

The following claims are on appeal:

Claim 10: A method of describing summary data of at least one of audio data, video data, and audiovisual data (hereinafter called audio/video), said method comprising:

(A) identifying multiple items of compressed or uncompressed original audio/video contents;

(B) identifying slide components of an audio/video slide composed of single or multiple important portions of the multiple items of original audio/video contents; and

(C) providing a description of the slide components such that the components are described sequentially;

wherein the description of the slide components includes a description about a link between the multiple items of original audio/video contents and the slide components.

Claim 11: The method of describing summary data of audio/video of claim 10,

wherein the slide components of the audio/video slide are single or multiple segments included in the original audio/video contents, and information about the segment is described sequentially.

Claim 12: The method of describing summary data of audio/video of claim 10,

wherein the slide components of the audio/video slide are single or multiple segments included in the original audio/video contents, and the segment is a separate file, and a set of files is described sequentially.

Claim 13: The method of describing summary data of audio/video of claim 10,

wherein the slide components of the audio/video slide are single or multiple segments included in the original audio/video contents, a set of segments is integrated as one composite file, and the individual segments of the composite file are described sequentially.

Claim 14: The method of describing summary data of audio/video of claim 10,

wherein, if there are multiple original audio/video contents, the description about the link between the original contents and the slide components is a description about an identifier of the original contents to which the slide components belong.

Claim 15: The method of describing summary data of audio/video of claim 10,

wherein, if there is a single original audio/video content, the description about the link between the original content and the slide components is a description about a temporal segment in the original content of the slide components.

Claim 16: A browsing method comprising:

describing summary data of audio/video according to the method of claim 10,

wherein it is possible to transfer from playback of the audio/video slide to playback of the original audio/video content relating to the slide components of the audio/video slide, and it is also possible to transfer reversely from playback of original audio/video content to playback of the audio/video slide.

Claim 17: A browsing method comprising:

describing summary data of audio/video according to the method of claim 10,

wherein it is possible to display attribute data describing about the corresponding original audio/video content by using description data of audio/video slide components during playback of an audio/video slide.

Claim 18: A browsing method comprising:

describing summary data of audio/video according to the method of claim 10,

wherein corresponding original audio/video content is played by using description data of the audio/video slide components during playback of an audio/video slide.

Claim 19: A method of describing summary data of at least one of audio data, video data, and audiovisual data (hereinafter called audio/video), said method comprising:

(A) identifying single or multiple compressed or uncompressed original audio/video contents;

(B) identifying slide components of an audio/video slide composed of single or multiple important portions of the original audio/video contents;

(C) providing a description of the slide components such that the components are described sequentially, the description of the slide components including a link description of the temporal relationship between the original audio/video contents and the slide components; and

(D) displaying the description of the slide components.

Claim 20: The method of describing summary data of audio/video of claim 19,

wherein the slide components of the audio/video slide are single or multiple segments included in the original audio/video contents, and information about the segment is described sequentially.

Claim 21: The method of describing summary data of audio/video of claim 19,

wherein the slide components of the audio/video slide are single or multiple segments included in the original audio/video contents, and the segment is a separate file, and a set of files is described sequentially.

Claim 22: The method of describing summary data of audio/video of claim 19,

wherein the slide components of the audio/video slide are single or multiple segments included in the original audio/video contents, a set of segments is integrated as one composite file, and the individual segments of the composite file are described sequentially.

Claim 23: The method of describing summary data of audio/video of claim 19, wherein, if there are multiple original audio/video contents, the description about the link between the original contents and the slide components is a description about an identifier of the original contents to which the slide components belong.

Claim 24: The method of describing summary data of audio/video of claim 19, wherein, if there is a single original audio/video content, the description about the link between the original content and the slide components is a description about a temporal segment in the original content of the slide components.

Claim 25: A browsing method comprising:
describing summary data of audio/video according to the method of claim 19,
wherein it is possible to transfer from playback of the audio/video slide to playback of the original audio/video content relating to the slide components of the audio/video slide, and it is also possible to transfer reversely from playback of original audio/video content to playback of the audio/video slide.

Claim 26: A browsing method comprising:
describing summary data of audio/video according to the method of claim 19,

wherein it is possible to display attribute data describing about the corresponding original audio/video content by using description data of audio/video slide components during playback of an audio/video slide.

Claim 27: A browsing method comprising:

describing summary data of audio/video according to the method of claim 19,
wherein corresponding original audio/video content is played by using description data of the audio/video slide components during playback of an audio/video slide.

EVIDENCE APPENDIX

No evidence under 37 C.F.R. § 41.37(c)(1)(ix) is submitted.



09/863,352

RELATED PROCEEDING APPENDIX

No decisions under 37 C.F.R. § 41.37(c)(1)(x) are rendered.